

110TH CONGRESS
2D SESSION

H. R. 7217

To amend title 40, United States Code, to enhance authorities with regard to real property that has yet to be reported excess, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2008

Mr. MOORE of Kansas (for himself and Mr. DUNCAN) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

SEPTEMBER 29, 2008

The Committee on Oversight and Government Reform discharged; considered and passed

A BILL

To amend title 40, United States Code, to enhance authorities with regard to real property that has yet to be reported excess, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Real Property
5 Disposal Enhancement Act of 2008”.

1 **SEC. 2. DUTIES OF THE GENERAL SERVICES ADMINISTRA-**
 2 **TION AND EXECUTIVE AGENCIES.**

3 (a) IN GENERAL.—Section 524 of title 40, United
 4 States Code, is amended to read as follows:

5 **“§ 524. Duties of the General Services Administration**
 6 **and executive agencies**

7 “(a) DUTIES OF THE GENERAL SERVICES ADMINIS-
 8 TRATION.—

9 “(1) GUIDANCE.—The Administrator shall
 10 issue guidance for the development and implementa-
 11 tion of agency real property plans. Such guidance
 12 shall include recommendations on—

13 “(A) how to identify excess properties;

14 “(B) how to evaluate the costs and benefits
 15 involved with disposing of real property;

16 “(C) how to prioritize disposal decisions
 17 based on agency missions and anticipated fu-
 18 ture need for holdings; and

19 “(D) how best to dispose of those prop-
 20 erties identified as excess to the needs of the
 21 agency.

22 “(2) DATABASE.—The Administrator shall es-
 23 tablish and maintain a single, comprehensive, and
 24 descriptive database of all Federal real property as-
 25 sets under the custody and control of all executive
 26 agencies, other than real property assets excluded

1 for reasons of national security. The Administrator
2 shall collect from each executive agency such de-
3 scriptive information, except for classified informa-
4 tion, as necessary in order to describe the nature,
5 use, and extent of the real property holdings of the
6 Federal government. The descriptive information for
7 each piece of real property shall include—

8 “(A) geographic location with address and
9 description;

10 “(B) total size including square footage
11 and acreage;

12 “(C) mission criticality; and

13 “(D) the level of utilization of the prop-
14 erty, including whether the real property is ex-
15 cess, surplus, underutilized, or unutilized.

16 “(3) USABILITY.—(A) The database established
17 and maintained under this section shall be accessible
18 by agencies through a searchable Web site.

19 “(B) A searchable Web site means a Web site
20 that, at a minimum, allows agencies—

21 “(i) to search and aggregate Federal real
22 property by constructed asset, facility/installa-
23 tion, agency, location, and level of utilization;
24 and

1 “(ii) to download data from any such
2 search.

3 “(C) To the extent consistent with national se-
4 curity, the database shall be accessible by the public
5 at no cost through the Web site of the General Serv-
6 ices Administration. The Administrator may with-
7 hold from public disclosure information included in
8 the database if the Administrator determines that
9 withholding such information would be in the best
10 interest of the Government or the public. At a min-
11 imum, the Administrator shall make aggregate infor-
12 mation contained in the database available to the
13 public.

14 “(D) Nothing in this paragraph requires an
15 agency to make available to the public information
16 that is exempt from disclosure pursuant to section
17 552 of title 5, United States Code (popularly known
18 as the Freedom of Information Act).

19 “(4) ANNUAL REPORT.—(A) The Administrator
20 shall submit an annual report, for each of the first
21 5 years after 2008, to the congressional committees
22 listed in subparagraph (C) based on data submitted
23 from all executive agencies, detailing executive agen-
24 cy efforts to reduce their real property assets and

1 the additional information described in subpara-
2 graph (B).

3 “(B) The report shall contain the following in-
4 formation for the year covered by the report:

5 “(i) The aggregated estimated market
6 value and number of real property assets under
7 the custody and control of all executive agen-
8 cies, set forth government-wide and by agency,
9 and for each at the constructed asset level and
10 at the facility/installation level.

11 “(ii) The aggregated estimated market
12 value and number of surplus real property as-
13 sets under the custody and control of all execu-
14 tive agencies, set forth government-wide and by
15 agency, and for each at the constructed asset
16 level and at the facility/installation level.

17 “(iii)(I) The aggregated cost for maintain-
18 ing all surplus real property under the custody
19 and control of all executive agencies, set forth
20 government-wide and by agency, and for each
21 at the constructed asset level and at the facility/
22 installation level.

23 “(II) For purposes of subclause (I), costs
24 for real properties owned by the Federal gov-
25 ernment shall include recurring maintenance

1 and repair costs, utilities, cleaning and jani-
2 torial costs, and roads and grounds expenses.

3 “(III) For purposes of subclause (I), costs
4 for real properties leased by the Federal govern-
5 ment shall include lease costs, including base
6 and operating rent and any other relevant costs
7 listed in subclause (II) not covered in the lease
8 contract.

9 “(iv) The aggregated estimated deferred
10 maintenance costs of all real property under the
11 custody and control of all executive agencies,
12 set forth government-wide and by agency, and
13 for each at the constructed asset level and at
14 the facility/installation level.

15 “(v) For each surplus real property facil-
16 ity/installation disposed of, an indication of—

17 “(I) its geographic location with ad-
18 dress and description;

19 “(II) its size, including square footage
20 and acreage;

21 “(III) the date and method of dis-
22 posal; and

23 “(IV) its estimated market value.

24 “(vi) Such other information as the Ad-
25 ministrator considers appropriate.

1 “(C) The congressional committees listed in
2 this subparagraph are as follows:

3 “(i) The Committee on Oversight and Gov-
4 ernment Reform and the Committee on Trans-
5 portation and Infrastructure of the House of
6 Representatives.

7 “(ii) The Committee on Homeland Secu-
8 rity and Governmental Affairs and the Com-
9 mittee on Environment and Public Works of the
10 Senate.

11 “(5) ASSISTANCE.—The Administrator shall as-
12 sist executive agencies in the identification and dis-
13 posal of excess real property.

14 “(b) DUTIES OF EXECUTIVE AGENCIES.—

15 “(1) IN GENERAL.—Each executive agency
16 shall—

17 “(A) maintain adequate inventory controls
18 and accountability systems for property under
19 its control;

20 “(B) continuously survey property under
21 its control to identify excess property;

22 “(C) promptly report excess property to
23 the Administrator;

24 “(D) perform the care and handling of ex-
25 cess property; and

1 “(E) transfer or dispose of excess property
2 as promptly as possible in accordance with au-
3 thority delegated and regulations prescribed by
4 the Administrator.

5 “(2) SPECIFIC REQUIREMENTS WITH RESPECT
6 TO REAL PROPERTY.—With respect to real property,
7 each executive agency shall—

8 “(A) develop and implement a real prop-
9 erty plan in order to identify properties to de-
10 clare as excess using the guidance issued under
11 subsection (a)(1);

12 “(B) identify and categorize all real prop-
13 erty owned, leased, or otherwise managed by
14 the agency;

15 “(C) establish adequate goals and incen-
16 tives that lead the agency to reduce excess real
17 property in its inventory;

18 “(D) when appropriate, use the authorities
19 in section 572(a)(2)(B) of this title in order to
20 identify and prepare real property to be re-
21 ported as excess.

22 “(3) ADDITIONAL REQUIREMENTS.—Each exec-
23 utive agency, as far as practicable, shall—

24 “(A) reassign property to another activity
25 within the agency when the property is no

1 longer required for the purposes of the appro-
 2 priation used to make the purchase;

3 “(B) transfer excess property under its
 4 control to other Federal agencies and to organi-
 5 zations specified in section 321(c)(2) of this
 6 title; and

7 “(C) obtain excess properties from other
 8 Federal agencies to meet mission needs before
 9 acquiring non-Federal property.”.

10 (b) CLERICAL AMENDMENT.—The item relating to
 11 section 524 in the table of sections at the beginning of
 12 chapter 5 of such title is amended to read as follows:

“524. Duties of the General Services Administration and executive agencies.”.

13 **SEC. 3. ENHANCED AUTHORITIES WITH REGARD TO PRE-**
 14 **PARING PROPERTIES TO BE REPORTED AS**
 15 **EXCESS.**

16 Section 572(a)(2) of title 40, United States Code, is
 17 amended—

18 (1) by redesignating subparagraphs (B) and
 19 (C) as subparagraphs (C) and (D), respectively; and
 20 (2) by inserting after subparagraph (A) the fol-
 21 lowing new subparagraph:

22 “(B) ADDITIONAL AUTHORITY.—(i) From
 23 the fund described in paragraph (1), subject to
 24 clause (iv), the Administrator may obligate an
 25 amount to pay the direct and indirect costs re-

1 lated to identifying and preparing properties to
2 be reported excess by another agency.

3 “(ii) The General Services Administration
4 shall be reimbursed from the proceeds of the
5 sale of such properties for such costs.

6 “(iii) Net proceeds shall be dispersed pur-
7 suant to section 571 of this title.

8 “(iv) The authority under clause (i) to ob-
9 ligate funds to prepare properties to be reported
10 excess does not include the authority to convey
11 such properties by use, sale, lease, exchange, or
12 otherwise, including through leaseback arrange-
13 ments or service agreements.

14 “(v) Nothing in this subparagraph is in-
15 tended to affect subparagraph (D).”.

16 **SEC. 4. ENHANCED AUTHORITIES WITH REGARD TO RE-**
17 **VERTED REAL PROPERTY.**

18 (a) **AUTHORITY TO PAY EXPENSES RELATED TO RE-**
19 **VERTED REAL PROPERTY.**—Section 572(a)(2)(A) of title
20 40, United States Code, is amended by adding at the end
21 the following:

22 “(iv) The direct and indirect costs as-
23 sociated with the reversion, custody, and
24 disposal of reverted real property.”.

1 (b) REQUIREMENTS RELATED TO SALES OF RE-
2 VERTED PROPERTY UNDER SECTION 550.—Section
3 550(b)(1) of title 40, United States Code, is amended—

4 (1) by inserting “(A)” after “(1) IN GEN-
5 ERAL.—”; and

6 (2) by adding at the end the following: “If the
7 official, in consultation with the Administrator, rec-
8 ommends reversion of the property, the Adminis-
9 trator shall take control of such property, and, sub-
10 ject to subparagraph (B), sell it at or above ap-
11 praised fair market value for cash and not by lease,
12 exchange, leaseback arrangements, or service agree-
13 ments.

14 “(B) Prior to sale, the Administrator shall
15 make such property available to State and local gov-
16 ernments and certain non-profit institutions or orga-
17 nizations pursuant to this section and sections 553
18 and 554 of this title.”.

19 (c) REQUIREMENTS RELATED TO SALES OF RE-
20 VERTED PROPERTY UNDER SECTION 553.—Section
21 553(e) of title 40, United States Code, is amended—

22 (1) by inserting “(1)” after “THIS SECTION.—
23 ”; and

24 (2) by adding at the end the following: “If the
25 Administrator determines that reversion of the prop-

erty is necessary to enforce compliance with the terms of the conveyance, the Administrator shall take control of such property and, subject to paragraph (2), sell it at or above appraised fair market value for cash and not by lease, exchange, leaseback arrangements, or service agreements.

“(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 554 of this title.”.

(d) REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 554.—Section 554(f) of title 40, United States Code, is amended—

(1) by inserting “(1)” after “THIS SECTION.—”; and

(2) by adding at the end the following: “If the Secretary, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property and, subject to paragraph (2), sell it at or above appraised fair market value for cash and not by lease, exchange, leaseback arrangements, or service agreements.

“(b) Prior to sale, the Administrator shall make such property available to State and local governments and cer-

tain non-profit institutions or organizations pursuant to this section and sections 550 and 553 of this title.”.

SEC. 5. AGENCY RETENTION OF PROCEEDS.

The text of section 571 of title 40, United States Code, is amended to read as follows:

“(a) PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.—Net proceeds described in subsection (d) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the real property is determined to be excess. Such funds shall be expended only as authorized in annual appropriations Acts and only for activities as described in section 524(b) of this title and disposal activities, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title. Proceeds may also be expended by the agency for maintenance and repairs of the agency’s real property necessary for its disposal or for the repair or alteration of the agency’s other real property, provided that proceeds shall not be authorized for expenditure in an appropriations Act for any repair or alteration project that is subject to the requirements of section 3307 of this title without a prospectus submitted by the General Services Administration and approved by the Committee on Transportation and Infrastructure of the House of

1 Representatives and the Committee on Environment and
2 Public Works of the Senate.

3 “(b) EFFECT ON OTHER SECTIONS.—Nothing in this
4 section is intended to affect section 572(b), 573, or 574
5 of this title.

6 “(c) DISPOSAL AGENCY FOR REVERTED PROP-
7 erty.—For the purposes of this section, for any real
8 property that reverts to the United States under sections
9 550, 553, and 554 of this title, the General Services Ad-
10 ministration, as the disposal agency, shall be treated as
11 the agency with custody and accountability for the real
12 property at the time the real property is determined to
13 be excess.

14 “(d) NET PROCEEDS.—The net proceeds referred to
15 in subsection (a) are proceeds under this chapter, less ex-
16 penses of the transfer or disposition as provided in section
17 572(a) of this title, from a—

18 “(1) transfer of excess real property to a Fed-
19 eral agency for agency use; or

20 “(2) sale, lease, or other disposition of surplus
21 real property.

22 “(e) PROCEEDS FROM TRANSFER OR SALE OF PER-
23 SONAL PROPERTY.—(1) Except as otherwise provided in
24 this subchapter, proceeds described in paragraph (2) shall
25 be deposited in the Treasury as miscellaneous receipts.

1 “(2) The proceeds described in this paragraph are
2 proceeds under this chapter from—

3 “(A) a transfer of excess personal property to
4 a Federal agency for agency use; or

5 “(B) a sale, lease, or other disposition of sur-
6 plus personal property.

7 “(3) Subject to regulations under this subtitle, the
8 expenses of the sale of personal property may be paid from
9 the proceeds of sale so that only the net proceeds are de-
10 posited in the Treasury. This paragraph applies whether
11 proceeds are deposited as miscellaneous receipts or to the
12 credit of an appropriation as authorized by law.”.

13 **SEC. 6. DEMONSTRATION AUTHORITY.**

14 (a) IN GENERAL.—Subchapter II of chapter 5 of title
15 40, United States Code, is amended by adding at the end
16 the following new section:

17 **“§ 530. Demonstration program of inapplicability of**
18 **certain requirements of law**

19 “(a) AUTHORITY.—Effective for fiscal years 2009
20 and 2010, the requirements of section 501(a) of the
21 McKinney Vento Homeless Assistance Act (42 U.S.C.
22 11411(a)) shall not apply to eligible properties.

23 “(b) ELIGIBLE PROPERTIES.—A property is eligible
24 for purposes of subsection (a) if it meets both of the fol-
25 lowing requirements:

1 “(1) The property is selected for demolition by
2 an agency and is a Federal building or other Federal
3 real property located on land not determined to be
4 excess, for which there is an ongoing Federal need,
5 and not to be used in any lease, exchange, leaseback
6 arrangement, or service agreement.

7 “(2) The property is—

8 “(A) located in an area to which the gen-
9 eral public is denied access in the interest of
10 national security and where alternative access
11 cannot be provided for the public without com-
12 promising national security; or

13 “(B) the property is—

14 “(i) uninhabitable;

15 “(ii) not a housing unit; and

16 “(iii) selected for demolition by an
17 agency because either—

18 “(I) the demolition is necessary
19 to further an identified Federal need
20 for which funds have been authorized
21 and appropriated; or

22 “(II) the property poses risk to
23 human health and safety or has be-
24 come an attractive nuisance.

25 “(c) LIMITATIONS.—

1 “(1) No property of the Department of Vet-
2 erans Affairs may be considered an eligible property
3 for purposes of subsection (a).

4 “(2) With respect to an eligible property de-
5 scribed in subsection (b), the land underlying the
6 property remains subject to all public benefit re-
7 quirements and notifications for disposal.

8 “(d) NOTIFICATION TO CONGRESS.—(1) A list of
9 each eligible property described in subsection (b) that is
10 demolished or scheduled for demolition, by date of demoli-
11 tion or projected demolition date, shall be sent to the con-
12 gressional committees listed in paragraph (2) and pub-
13 lished on the Web site of the General Services Administra-
14 tion biannually beginning 6 months after the date of the
15 enactment of this section.

16 “(2) The congressional committees listed in this para-
17 graph are as follows:

18 “(A) The Committee on Oversight and Govern-
19 ment Reform and the Committee on Transportation
20 and Infrastructure of the House of Representatives.

21 “(B) The Committee on Homeland Security
22 and Governmental Affairs and the Committee on
23 Environment and Public Works of the Senate.

24 “(e) RELATIONSHIP TO OTHER PROVISIONS OF
25 LAW.—Nothing in this section may be construed as inter-

1 fering with the requirement for the submission of a pro-
2 spectus to Congress as established by section 3307 of this
3 title or for all demolitions to be carried out pursuant to
4 section 527 of this title.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of chapter 5 of title 40, United States
7 Code, is amended by inserting after the item relating to
8 section 529 the following new item:

“530. Demonstration program of inapplicability of certain requirements of law.”.

